

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARK CHRISTIAN DELOS REYES,

Plaintiff,

-against-

ABUNDANT NURSING, INC., MARATHON  
HEALTH CARE CORP., MARATHON  
GROUP CORP., MACDONALD S. TUDEME,  
GEORGE L. MAGNO, AND ELLENGRACE  
FLORES

Defendants.  
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Index No:  
19-CV-2596(AMD)(RLM)

**AMENDED ANSWER**  
**OF ELLENGRACE**  
**FLORES**

Defendant, EllenGrace Flores (“Flores”) through her undersigned attorney of record hereby submits the following amended answer and affirmative defenses and counterclaim to the Plaintiff’s Complaint (the “Complaint”):

**ANSWER**

**PRELIMINARY STATEMENT**

1. Flores lacks knowledge or information about Plaintiff’s nationality. Flores denies the remaining allegations in paragraph 1 of the Complaint.
2. Flores denies the allegations in paragraph 2 of the Complaint.
3. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 3 of the Complaint.
4. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 4 of the Complaint.
5. Flores denies the allegations in paragraph 5 of the Complaint.

6. Flores denies the allegations in paragraph 6 of the Complaint.
7. Flores denies the allegations in paragraph 7 of the Complaint.
8. Flores denies the allegations in paragraph 8 of the Complaint.

### **JURISDICTION AND VENUE**

9. Flores denies the allegations in paragraph 9 of the Complaint.
10. Flores denies the allegations in paragraph 10 of the Complaint.
11. Flores denies the allegations in paragraph 11 of the Complaint.

### **THE PARTIES**

12. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 12 of the Complaint.

13. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 13 of the Complaint.

14. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 14 of the Complaint.

15. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 15 of the Complaint.

### **Defendants**

16. Flores denies the allegations in paragraph 16 of the Complaint.
17. Flores admits that she lives in Woodside, NY. Flores denies the remaining allegations in paragraph 17 of the Complaint.

18. The terms “employment agent” and “licensed employment agency” are not defined and therefore Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 18 of the Complaint.

19. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 19 of the Complaint.

20. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 20 of the Complaint.

21. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 21 of the Complaint.

22. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 22 of the Complaint.

23. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 23 of the Complaint.

24. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 24 of the Complaint.

25. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 25 of the Complaint.

26. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 26 of the Complaint.

27. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 27 of the Complaint.

28. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 28 of the Complaint.

29. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 29 of the Complaint.

30. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 30 of the Complaint.

### **FACTUAL BACKGROUND**

#### **Response to Recruitment and Trafficking to the United States**<sup>1</sup>

31. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 31 of the Complaint.

32. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 32 of the Complaint.

33. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 33 of the Complaint.

34. Flores lacks knowledge or information sufficient to form a belief as to the plaintiff's interactions with Maxwell Flores. Flores denies the remaining allegations in paragraph 34 of the Complaint.

35. Flores denies the allegations in paragraph 35 of the Complaint.

36. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 36 of the Complaint.

37. Flores denies the allegations in paragraph 37 of the Complaint.

38. Flores denies the allegations in paragraph 38 of the Complaint.

39. Flores denies the allegations in paragraph 39 of the Complaint.

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<sup>1</sup> Defendant Flores copies the titles from the Plaintiff's complaint. To the extent that the titles in the Complaint could be interpreted as allegations those allegations are denied.

- 40. Flores denies the allegations in paragraph 40 of the Complaint.
- 41. Flores denies the allegations in paragraph 41 of the Complaint.
- 42. Flores denies the allegations in paragraph 42 of the Complaint.
- 43. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 43 of the Complaint.
- 44. Flores denies the allegations in paragraph 44 of the Complaint.
- 45. Flores denies the allegations in paragraph 45 of the Complaint.
- 46. Flores denies the allegations in paragraph 46 of the Complaint.
- 47. Flores denies the allegations in paragraph 47 of the Complaint.
- 48. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 48 of the Complaint.
- 49. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 49 of the Complaint.
- 50. Flores denies the allegations in paragraph 50 of the Complaint.

**Response to Forced Labor and Exploitation in the United States**

- 51. Flores denies the allegations in paragraph 51 of the Complaint.
- 52. Flores denies the allegations in paragraph 52 of the Complaint.
- 53. Flores denies the allegations in paragraph 53 of the Complaint.
- 54. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 54 of the Complaint.
- 55. Flores denies the allegations in paragraph 55 of the Complaint.
- 56. Flores denies the allegations in paragraph 56 of the Complaint.
- 57. Flores denies the allegations in paragraph 57 of the Complaint.

58. Flores denies the allegations in paragraph 58 of the Complaint.

59. Flores denies the allegations in paragraph 59 of the Complaint.

60. Flores denies the allegations in paragraph 60 of the Complaint.

61. Flores denies the allegations in paragraph 61 of the Complaint.

62. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 62 of the Complaint.

63. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 63 of the Complaint.

64. Flores denies that plaintiff paid Flores for her services. Flores lacks knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 64 of the Complaint.

65. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 65 of the Complaint.

66. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 66 of the Complaint.

67. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 67 of the Complaint.

68. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 68 of the Complaint.

69. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 69 of the Complaint.

70. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 70 of the Complaint.

71. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 71 of the Complaint.

72. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 72 of the Complaint.

73. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 73 of the Complaint.

74. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 74 of the Complaint.

75. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 75 of the Complaint.

76. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 76 of the Complaint.

**Response to Defendant Tudeme's Forced Labor**

77. Flores denies the allegations in paragraph 77 of the Complaint.

78. Flores denies the allegations in paragraph 78 of the Complaint.

79. Flores denies the allegations in paragraph 79 of the Complaint.

80. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 80 of the Complaint.

81. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 81 of the Complaint.

82. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 82 of the Complaint.

83. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 83 of the Complaint.

84. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 84 of the Complaint.

85. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 85 of the Complaint.

86. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 86 of the Complaint.

87. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 87 of the Complaint.

88. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 88 of the Complaint.

89. Flores denies that Plaintiff was working without pay for all three Defendants. Flores lacks knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 89 of the Complaint.

90. Flores denies the allegations in paragraph 90 of the Complaint.

91. Flores lacks knowledge or information sufficient to form a belief as to the Plaintiff's state of mind. Flores denies the remaining allegations in paragraph 91 of the Complaint.

#### **Response to Mr. Delos Reyes' Employment Conditions at Marathon Health**

92. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 92 of the Complaint.



93. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 93 of the Complaint.

94. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 94 of the Complaint.

95. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 95 of the Complaint.

96. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 96 of the Complaint.

97. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 97 of the Complaint.

98. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 98 of the Complaint.

99. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 99 of the Complaint.

100. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 100 of the Complaint.

101. Flores denies the allegations in paragraph 101 of the Complaint.

102. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 102 of the Complaint.

103. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 103 of the Complaint.

104. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 104 of the Complaint.

105. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 105 of the Complaint.

106. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 106 of the Complaint.

107. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 107 of the Complaint.

108. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 108 of the Complaint.

109. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 109 of the Complaint.

110. Flores denies the allegations in paragraph 110 of the Complaint.

111. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 111 of the Complaint.

112. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 112 of the Complaint.

113. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 113 of the Complaint.

114. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 114 of the Complaint.

115. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 115 of the Complaint.

116. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 116 of the Complaint.

117. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 117 of the Complaint.

118. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 118 of the Complaint.

119. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 119 of the Complaint.

120. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 120 of the Complaint.

**Response to Defendants Continued Abuse, Threats and Coercion**

121. Flores denies the allegations in paragraph 121 of the Complaint.

122. Flores denies the allegations in paragraph 122 of the Complaint.

**Response to Threats and Abuse from Defendant Tudeme**

123. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 123 of the Complaint.

124. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 124 of the Complaint.

125. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 125 of the Complaint.

126. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 126 of the Complaint.

127. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 127 of the Complaint.

### **Response to Threats and Abuse from Defendant Flores**

128. Flores denies the allegations in paragraph 128 of the Complaint.

129. Flores denies the allegations in paragraph 129 of the Complaint.

130. Flores denies the allegations in paragraph 130 of the Complaint.

131. Flores denies the allegations in paragraph 131 of the Complaint.

132. Flores denies the allegations in paragraph 132 of the Complaint.

133. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 133 of the Complaint.

134. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 134 of the Complaint.

135. Flores denies the allegations in paragraph 135 of the Complaint.

136. Flores denies the allegations in paragraph 136 of the Complaint.

137. Flores denies the allegations in paragraph 137 of the Complaint.

138. Flores denies the allegations in paragraph 138 of the Complaint.

139. Flores denies the allegations in paragraph 139 of the Complaint.

140. Flores denies the allegations in paragraph 140 of the Complaint.

141. Flores denies the allegations in paragraph 141 of the Complaint.

142. Flores denies the allegations in paragraph 142 of the Complaint.

### **Response to Threats and Abuse from Defendant Magno**

143. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 143 of the Complaint.

144. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 144 of the Complaint.

145. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 145 of the Complaint.

146. Flores denies the allegations in paragraph 146 of the Complaint.

147. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 147 of the Complaint.

#### **Response to Violations of Employment and Immigration Laws and Breach of Contract**

148. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 148 of the Complaint.

149. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 149 of the Complaint.

150. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 150 of the Complaint.

151. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 151 of the Complaint.

152. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 152 of the Complaint.

153. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 153 of the Complaint.

154. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 154 of the Complaint.

#### **Response to Defendants' Deception as to Delos Reyes's Rights**

155. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 155 of the Complaint.

156. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 156 of the Complaint.

157. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 157 of the Complaint.

**Response to Defendants Flores and Magno Prevented Mr. Delos Reyes from Learning His Rights**

158. Flores denies the allegations in paragraph 158 of the Complaint.

159. Flores denies the allegations in paragraph 159 of the Complaint.

160. Flores denies the allegations in paragraph 160 of the Complaint.

161. Flores denies the allegations in paragraph 161 of the Complaint.

162. Flores denies the allegations in paragraph 162 of the Complaint.

163. Flores denies the allegations in paragraph 163 of the Complaint.

164. Flores denies the allegations in paragraph 164 of the Complaint.

165. Flores denies the allegations in paragraph 165 of the Complaint.

166. Flores denies the allegations in paragraph 166 of the Complaint.

**Response to Related Proceedings**

167. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 167 of the Complaint.

168. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 168 of the Complaint.

169. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 169 of the Complaint.

170. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 170 of the Complaint.

171. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 171 of the Complaint.

172. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 172 of the Complaint.

173. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 173 of the Complaint.

174. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 174 of the Complaint.

175. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 175 of the Complaint.

#### **FIRST CLAIM FOR RELIEF**

176. Flores denies the allegations in paragraph 176 of the Complaint.

177. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 177 of the Complaint.

178. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 178 of the Complaint.

179. Flores denies the allegations in paragraph 179 of the Complaint.

180. Flores denies the allegations in paragraph 180 of the Complaint.

181. Flores denies the allegations in paragraph 181 of the Complaint.

182. Flores denies the allegations in paragraph 182 of the Complaint.

183. Flores denies the allegations in paragraph 183 of the Complaint.

184. Flores denies the allegations in paragraph 184 of the Complaint.

185. Flores denies the allegations in paragraph 185 of the Complaint.

## **SECOND CLAIM FOR RELIEF**

186. Flores repeats and realleges the paragraphs above and incorporates them fully herein.

187. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 187 of the Complaint.

188. Flores denies the allegations in paragraph 188 of the Complaint.

189. Flores denies the allegations in paragraph 189 of the Complaint.

190. Flores denies the allegations in paragraph 190 of the Complaint.

191. Flores denies the allegations in paragraph 191 of the Complaint.

192. Flores denies the allegations in paragraph 192 of the Complaint.

193. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 193 of the Complaint.

194. Flores denies the allegations in paragraph 194 of the Complaint.

195. Flores denies the allegations in paragraph 195 of the Complaint.

## **THIRD CLAIM FOR RELIEF**

196. Flores repeats and realleges the paragraphs above and incorporates them fully herein.

197. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 197 of the Complaint.

198. Flores denies the allegations in paragraph 198 of the Complaint.

199. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 199 of the Complaint.



200. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 200 of the Complaint.

201. Flores denies the allegations in paragraph 201 of the Complaint.

202. Flores denies the allegations in paragraph 202 of the Complaint.

#### **FOURTH CLAIM FOR RELIEF**

203. Flores repeats and realleges the paragraphs above and incorporates them fully herein.

204. Flores lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 204 of the Complaint.

205. Flores denies the allegations in paragraph 205 of the Complaint.

206. Flores denies the allegations in paragraph 206 of the Complaint.

207. Flores denies the allegations in paragraph 207 of the Complaint.

208. Flores denies the allegations in paragraph 208 of the Complaint.

209. Flores denies the allegations in paragraph 209 of the Complaint.

210. Flores denies the allegations in paragraph 210 of the Complaint.

211. Flores denies the allegations in paragraph 211 of the Complaint.

212. Flores denies the allegations in paragraph 212 of the Complaint.

213. Flores denies the allegations in paragraph 213 of the Complaint.

214. Flores denies the allegations in paragraph 214 of the Complaint.

#### **AFFIRMATIVE DEFENSES**

##### **First Affirmative Defense**

The complaint, in whole or part, fails to state a claim upon which relief can be granted.

### **Second Affirmative Defense**

Plaintiff's claims are barred to the extent that the damages complained of in the Complaint were incurred and/or caused by Plaintiff's action or inaction.

### **Third Affirmative Defense**

At all times, the defendant's actions were lawful, justified and in good faith.

### **Fourth Affirmative Defense**

Plaintiff is not entitled to punitive damages because at all times herein defendant EllenGrace Flores acted in good faith and had a reasonable basis for believing that she acted in accordance with the law.

### **Fifth Affirmative Defense**

The plaintiff was acting as an independent contractor and therefore not covered by the statutes complained of herein.

### **Sixth Affirmative Defense**

The plaintiff is an exempt employee under the Fair Labor Standards Act and New York Labor Law white-collar exceptions (administrator, executive, and/or professional) and therefore not entitled to overtime compensation.

### **Seventh Affirmative Defense**

To the extent that plaintiff is owed regular or overtime compensation, the *de minimus* rule applies.

### **Eighth Affirmative Defense**

Plaintiff is not entitled to compensation for worktime that was used for personal reasons that has no connection to the defendant's business.

**Ninth Affirmative Defense**

At no time complained of herein did Plaintiff perform work for defendant Flores.

**Tenth Affirmative Defense**

Pre-judgment interest is not available on the causes of action complained of herein.

**Eleventh Affirmative Defense**

Plaintiff's mental/emotional state was a pre-existing condition and not proximately caused by the conduct complained of herein.

**Twelfth Affirmative Defense**

If the plaintiff recovers a verdict against Flores, the Court is requested to have the liability of all of the defendants and their various culpability apportioned among them pursuant to Article 14 to the Civil Practice Law and Rules.

**Thirteenth Affirmative Defense**

To the extent any overtime is owed it should be calculated on a fluctuating workweek.

**Fourteenth Affirmative Defense**

The action is barred by res judicata and collateral estoppel following the plaintiff's participation in the Department of Labor proceeding.

**Fifteenth Affirmative Defense**

The plaintiff has already elected an administrative remedy by participating in the Department of Labor proceeding.

**Sixteenth Affirmative Defense**

Plaintiff's claims are barred by the applicable statute of limitations.

#### **Seventeenth Affirmative Defense**

The plaintiff has already had his damages compensated from collateral sources including but not limited to the judgment in the Department of Labor action, the settlement with MacDonald Tudeme and the settlement with George Magno.

#### **Eighteenth Affirmative Defense**

In the event that plaintiff recovers damages which have been paid or are payable from a collateral course, Flores will seek a collateral offset.

#### **Nineteenth Affirmative Defense**

The damages to the plaintiff were proximately caused by New York Life Insurance Company.

#### **Twentieth Affirmative Defense**

New York Life Insurance Company is an indispensable party to this action.

#### **Twenty First Affirmative Defense**

Flores reasonably relied upon the legal advice of George Magno that her actions were in accordance with the law.

#### **Twenty Second Affirmative Defense**

Flores and the Plaintiff share the same cultural heritage. Flores and the plaintiff have a similar level of education. Flores and the plaintiff are both immigrants to the United States. The plaintiff did not know that the actions complained of were illegal. Flores did not know that the actions complained of were illegal.

**Twenty Third Affirmative Defense**

Plaintiff participated in the activities complained of therein as admitted in paragraphs 132-33 of the Complaint. Plaintiff recruited others to use the services of defendants and provided services for those he recruited. It is contrary to public policy for the Court to adjudicate the controversy.

**JURY DEMAND**

Defendant Flores demands a trial by jury.

**WHEREFORE**, Defendant EllenGrace Flores demands the court grant judgment dismissing the complaint,

Dated: April 21, 2020  
New York, New York

**JOSHUA E. FINGOLD, ESQ.**

By: /s/ Joshua E. Fingold, Esq.  
Joshua E. Fingold, Esq.  
10 Rockefeller Plaza  
16<sup>th</sup> Floor  
New York, New York 10020  
(212) 837-8490